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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/750,744

12/28/2000

Hyung Byum Kim

13788

7201

23556

7590

03/30/2009

KIMBERLY-CLARK WORLDWIDE, INC.

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

03/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/750,744	<b>Applicant(s)</b> KIM ET AL.	
	<b>Examiner</b> Lynne Anderson	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23-26 and 29-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-26 and 29-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10 January 2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 10 January 2008 have been fully considered but they are not persuasive.

3. In response to the applicant's argument that Anderson fails to disclose the intake intensifier pledget overlying the body-facing surface of the absorbent core, it is noted that Anderson discloses in column 13, lines 59-62, an embodiment in which the intake intensifier pledget (i.e. the surge layer) is interposed between the cover (i.e. the bodyside liner) and the absorbent core (i.e. the retention layer). Anderson therefore fulfills the limitations of the present claims.

4. In response to the applicant's argument that Anderson fails to disclose a first absorbent layer overlying a second absorbent layer, as not disclosed in claim 37, it is noted that layer 4 of Anderson, as shown in figure 1, may be considered the second absorbent layer, and the first absorbent layer 5 overlies it.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 23-26 and 29-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (5,843,063) in view of Roe et al. (6,120,783).
7. With respect to claims 23, and 38, Anderson discloses all aspects of the claimed invention with the exception of the cover including a hydroentangled, hydroapertured spun-lace material. Anderson discloses an absorbent article, as shown in figure 1. The article comprises a liquid pervious cover, as disclosed in column 13, lines 18-19, an absorbent core 5, and an intake intensifier pledget 2 and 3. The pledget includes a first layer 2 comprising a through air bonded carded web, as disclosed in column 14, line 29, the web having a basis weight of between 15 and 70 gsm, as disclosed in column 14, lines 33-35, and a second layer 3 comprising an airlaid nonwoven material, as discloses in column 20, line 7. The intake intensifier layer can be positioned between the cover and the body-facing surface of the absorbent core, as disclosed in column 13, lines 59-62.
8. Anderson discloses in column 13, lines 31-40, that the liquid pervious cover comprises a nonwoven material such as a spunbond or meltblown web. Roe teaches in column 6, lines 46-67, nonwoven webs that are spunbond, meltblown, hydroentangled, hydroapertured, or a combination thereof, are equivalent for use as the liquid pervious cover of an absorbent article.

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9. It would therefore be obvious to one of ordinary skill in the art at the time of invention to make the liquid pervious cover of Anderson a hydroentagled, hydroapertured spunbond web, since Roe teaches the equivalence of such nonwoven webs for use as liquid pervious covers for absorbent articles.

10. With respect to claim 24, the through air bonded carded web has a low density, as disclosed in column 14, line 35, and is lofty, as disclosed in column 39-40.

11. With respect to claims 25 and 39, the web comprises a staple fiber, as disclosed in column 14, line 24. It would have been obvious to one of ordinary skill in the art at the time of invention to provide staple fibers having a denier of between 3 and 10, since where the general conditions of the claims are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

12. With respect to claim 26, the web comprises a bicomponent fiber, as disclosed in column 14, line 23.

13. With respect to claims 29 and 40, the absorbent core comprises a mixture of superabsorbent and fluff, as disclosed in column 12, lines 29-31.

14. With respect to claim 30, Anderson discloses all aspects of the claimed invention with the exception of the pledget having a length of at least 50 mm and a width of 30-60 mm. Anderson shows the pledget 2 has having a length that is less than the total length of the article, and width that is the width of the crotch region of the article. It would have been obvious to one of ordinary skill in the art at the time of invention to make the length of the pledget at least 50 mm and the width between 30 and 60 mm, since it has been

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held that where the general conditions of the claim are disclosed in the prior art (i.e. a pledget extending a portion of the length of an absorbent article), finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

15. With respect to claims 31 and 41, the article comprises a wrapping material 3, as shown in figure 1.

16. With respect to claim 32, the article comprises a fluid distribution layer 4, as shown in figure 1.

17. With respect to claim 33, a channel is formed adjacent the pledget 2, as shown in figure 1.

18. With respect to claims 34-35 and 42-43, the cover comprises rayon or polyester, as disclosed in column 13, lines 36-39.

19. With respect to claims 36 and 44, the cover comprises a mix of rayon and polyester, as disclosed in column 13, lines 36-39. It would have been obvious to one of ordinary skill in the art at the time of invention to have the amount of rayon be 70% and the amount of polyester be 30%, since it has been held that where the general conditions of the claim are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

20. With respect to claim 37, the article further comprises a second absorbent layer 4 comprising a thru-air bonded carded web having a basis weight of 35-70 gsm, as disclosed in column 15, lines 30-35, and the first absorbent layer 5 overlies the second absorbent layer 4, as shown in figure 1. It would have been obvious to one of ordinary skill in the art at the time of invention to provide staple fibers having a denier of between

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3 and 10, since where the general conditions of the claims are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/L. A./

Examiner, Art Unit 3761

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761